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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,233	04/07/2006	Jean-Marie Podvin	MBL-005	6978
31281	7590	06/19/2007		
LE-NHUNG MCLELAND 9679-C MAIN STREET FAIRFAX, VA 22031-3766			EXAMINER HALL, DEANNA K	
			ART UNIT	PAPER NUMBER
			3767	
			MAIL DATE	DELIVERY MODE
			06/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/575,233	<b>Applicant(s)</b> PODVIN ET AL.	
	<b>Examiner</b> Deanna K. Hall	<b>Art Unit</b> 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>April 7, 2006</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Blischak et al. (US 6,620,151) ("Blischak"). Blischak discloses:

A transfer chamber 12; transfer means 14; and a supply 20 including an inlet for receiving the liquid and an outlet 22 for delivering said liquid to the patient.

The outlet 22 of the supply is connected to a capillary.

The capillary 20 is provided with control means 24, 26 enabling the flow of liquid in the capillary to be adjusted C6 L59-61.

The control means comprises a remotely-controlled valve 28 and means 30 for controlling said valve C7 L26-28.

The means for controlling the valve comprise an internal or external sensor C7 L26-28.

The capillary is provided with a catheter 22 at its distal end.

The capillary is provided with means for measuring the flow of the liquid in the capillary C6 L59-61.

The flow measurement means comprise a central point pressure sensor C6 L62.

The supply includes means 16 for putting the liquid contained in the chamber to a constant pressure using a phase-change fluid C6 L13.

Means are provided for monitoring the flow in the capillary, integrated with the means for controlling the valve, enabling the valve to be restarted at predefined regular intervals for predefined durations C11 L1-12.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blischak in view of Johnson et al. (US 6,264,921) ("Johnson").

Blischak shows as discussed above. Blischak does not directly show the phase-change fluid being either isobutane or propane. Johnson, in the analogous art, teaches using isobutane or propane as the phase-change fluid C6 L31-33. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the device of Blischak with a propellant of isobutene or propane for providing a more commercially available propellant substance.

5. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blischak in view of Haerten et al. (US 4,077,405) ("Haerten").

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Blischak shows as discussed above. Blischak does not directly show the means for transferring liquid between the transfer chamber and the supply to comprise a tube and a check valve with the tube having a length that enables the transfer chamber and the supply to be separated by a distance. Haerten, in the analogous art, teaches a tube 3 having a length to separate it from the supply C4 L43-50 and a check valve 4. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the device of Blischak with the tube and check valve as taught by Haerten for safely and aseptically refilling the supply.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deanna K. Hall whose telephone number is 571-272-2819. The examiner can normally be reached on M-F 8:00am-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on 571-272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Deanna K. Hall  
Examiner  
AU 3767

dkh

KEVIN C. SIRMONS  
SUPERVISORY PATENT EXAMINER

